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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,964	06/25/2001	Charles Boice	EN9010004US1	1429
30400	7590	06/15/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI P.C. 5 COLUMBIA CIRCLE ALBANY, NY 12203			VO, TUNG T	
		ART UNIT		PAPER NUMBER
		2613		

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action Before the Filing of an Appeal Brief</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/888,964	BOICE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tung Vo	2613	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

THE REPLY FILED 27 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires 03 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-16, 18-38

Claim(s) withdrawn from consideration: \_\_\_\_\_

#### AFFIDAVIT OR OTHER EVIDENCE

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_

  
 Tung Vo  
 Primary Examiner  
 Art Unit: 2613

***Response to Arguments***

1. Applicant's arguments filed 04/27/2005 have been fully considered but they are not persuasive.

The applicant argued that the amended "automatically" in the claim is understood by one of ordinary skill in the art.

The examiner respectfully disagrees with the applicant. It is noted that the invention claims "automatically...." but the specification does not disclose "automatically" that raise to new matter as set forth in the previous Office Action dated 03/29/2005.

The applicant further argued that the Boroczky fails to disclose Applicant's claimed invention, pages 5-7 of the remarks.

The examiner respectfully disagrees with that applicant. It is submitted that Boroczky discloses a system for encoding a sequence of video frames comprising: multiple encoders connected in parallel (fig. 3), each encoder to receive the sequence of video frames for encoding thereof (210, ENC. 1-ENC.n), wherein each encoder of said multiple encoders employs a set of encode parameters (bit rates, GOP), at least one encode parameter (MPEG has variable compression rate between encoders as shown in figure 5) of the sets of encode parameters being varied between at least two encoders of the multiple encoders connected in parallel, each of the encoder encodes the sequences of video frames; a controller (230 of fig. 3) coupled to the multiple encoders (210) for selecting one set of encode parameters from the sets of encode parameters which best meets an encode objective; and means (240 of fig. 3) for outputting a bit-stream of encoded video data encoded from the sequence of video frames using said one set of encode parameters; and means (230 of fig. 3) for automatically adapting an encode parameter in

one or more encoders of the multiple encoders (390 of fig. 5) when no set of encode parameters of the sets of encode parameters employed by the multiple encoders reduces an encoded result which meets the encode objective (Step 390, NO GDP BOUNDARY OF ENC I, of fig. 5). In view of the discussion above, the Boroczky anticipates the claimed features.

The applicant further argued that that Suzuki does not disclose an automatic adaptation of one or more encode parameters of one or more sets of encode parameters employed by the multiple parallel connected encoders when no set of encode parameters produces an encoded result which meets the defined encode objective, page 8 of the remarks.

The examiner respectfully disagrees with that applicant. It is submitted that Suzuki discloses said controller (5 of fig. 5, see also CONTROL UNIT of fig. 19) further comprises means (9a of fig. 5; see also DETECTING UNIT of fig. 19) for automatically adapting (S2 of fig. 19, e.g. the line seizing is automatically feedback to the Step S1 when there is no line seizing) in one or more encoders of the multiple encoders *when no set of encode parameters (NO LINE SEIZING)* of the sets of encode parameters employed by the multiple encoders produces an encoded result which meets the encode objective (YES, LINE SEIZING, SELECTING (S3-S5 of fig. 19) ENCODER FOR ENCODING PROGRAM ACCORDING TO COMPRESSION RATE, S6-S12 of fig. 19), wherein selecting an encoded result of an encoder of the multiple encoders employing the selected one set of encode parameters, wherein the encoded result comprises the bitstream of encoded video data (Step S5-S9 of fig. 19) and further discloses an automatic adaptation of one or more encode parameters of one or more sets of encode parameters employed by the multiple parallel-connected encoders (5, 9a of fig. 5, e.g. the detecting unit (9a) feedbacks the transmission request from a user to the controller (5), this is called the adaptation

process, and the detecting unit detects an objective is not met then sent back to the control (S2, S1 of fig. 19), automatically feedback to the control) when no set of encode parameters produces an encoded result which meets the defined encode objective (NO, LINE SEIZING, STEP S2 of fig. 19). In view of the discussion above, Suzuki anticipates the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tung Vo  
Primary Examiner  
Art Unit 2613